

AMENDED IN SENATE JUNE 29, 2011

AMENDED IN SENATE JUNE 9, 2011

AMENDED IN ASSEMBLY MAY 5, 2011

AMENDED IN ASSEMBLY APRIL 26, 2011

CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

ASSEMBLY BILL

No. 844

Introduced by Assembly Member Lara

February 17, 2011

An act to amend Section 72023.5 of, and to add ~~Section 66016.3~~ *Sections 66016.3 and 66016.4* to, the Education Code, relating to postsecondary education.

LEGISLATIVE COUNSEL'S DIGEST

AB 844, as amended, Lara. Student government: students qualifying for exemption from nonresident tuition: California Community Colleges: governing board membership.

(1) The Donahoe Higher Education Act sets forth, among other things, the missions and functions of California's public and independent segments of higher education, and their respective institutions of higher education.

Existing law exempts a student, other than a nonimmigrant alien, as defined, from paying nonresident tuition at the California State University and the California Community Colleges if certain requirements are met. Those requirements include that the person has attended high school in California for 3 or more years, has graduated from a California high school or has attained the equivalent thereof, has registered at or attends an accredited institution of higher education

in California not earlier than the fall semester or quarter of the 2001–02 academic year, and, if the person is without lawful immigration status, has filed a certain affidavit.

This bill would add a provision to the Donahoe Higher Education Act that would provide that any student, including a person without lawful immigration status, or a person who is exempt from nonresident tuition, as described above, may serve in any capacity in student government at the California State University or the California Community Colleges and receive any grant, scholarship, fee waiver, or reimbursement for expenses that is connected with that service to the full extent consistent with federal law. The University of California would be requested to comply with this provision.

This bill would find and declare that the amendments to the Donahoe Higher Education Act described above are state laws within the meaning of a specified federal provision.

(2) Existing law requires the governing board of each community college district to order the inclusion within the membership of the governing board of one or more nonvoting students who are residents of California, as determined pursuant to specified provisions of existing law, are enrolled in a community college of the district, and chosen by students enrolled in a college of the district in accordance with procedures prescribed by the governing board.

This bill would eliminate the requirement that a nonvoting student member of the governing board be a resident of California.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 66016.3 is added to the Education Code,
- 2 to read:
- 3 66016.3. (a) Any student, including a person without lawful
- 4 immigration status, or a person who is exempt from nonresident
- 5 tuition pursuant to Section 68130.5, may serve in any capacity in
- 6 student government at the California State University or the
- 7 California Community Colleges and receive any grant, scholarship,
- 8 fee waiver, or reimbursement for expenses incurred connected
- 9 with that service to the full extent consistent with federal law.
- 10 (b) The University of California is requested to comply with
- 11 this section.

1 (c) *The Legislature finds and declares this section is a state law*
2 *within the meaning of subsection (d) of Section 1621 of the United*
3 *States Code.*

4 SEC. 2. *Section 66016.4 is added to the Education Code, to*
5 *read:*

6 66016.4. *If a state court finds that Section 66016.3, or any*
7 *similar provision adopted by the Regents of the University of*
8 *California, is unlawful, the court may order, as equitable relief,*
9 *that the administering entity that is the subject of the lawsuit*
10 *terminate any waiver awarded under that statute or provision, but*
11 *no money damages, tuition refund or waiver, or other retroactive*
12 *relief may be awarded. In any action in which the court finds that*
13 *Section 66016.3, or any similar provision adopted by the Regents*
14 *of the University of California, is unlawful, the California*
15 *Community Colleges, the California State University, and the*
16 *University of California are immune from the imposition of any*
17 *award of money damages, tuition refund or waiver, or other*
18 *retroactive relief.*

19 ~~SEC. 2.~~

20 SEC. 3. *Section 72023.5 of the Education Code is amended to*
21 *read:*

22 72023.5. (a) (1) *The governing board of each community*
23 *college district shall order the inclusion within the membership of*
24 *the governing board, in addition to the number of members*
25 *otherwise prescribed, of one or more nonvoting students. These*
26 *students shall have the right to attend each and all meetings of the*
27 *governing board, except that student members shall not have the*
28 *right, or be afforded the opportunity, to attend executive sessions*
29 *of the governing board.*

30 ~~The~~

31 (2) *The students selected to serve on the governing board, shall*
32 *be enrolled in a community college of the district and shall be*
33 *chosen, and shall be recalled, by the students enrolled in the*
34 *community colleges of the district in accordance with procedures*
35 *prescribed by the governing board. A student member shall be*
36 *required throughout the term of his or her appointment to be*
37 *enrolled in a community college of the district for at least five*
38 *semester units, or its equivalent, and shall meet and maintain the*
39 *minimum standards of scholarship for community college students*
40 *prescribed by the community college district. The term of the*

1 student members shall be one year commencing on June 1 of each
2 year.

3 ~~The~~

4 (3) *The* nonvoting student members appointed pursuant to this
5 section shall be entitled to mileage allowance to the same extent
6 as regular members, but are not entitled to the compensation
7 prescribed by Section 72425.

8 ~~A~~

9 (4) A nonvoting student member shall be seated with the
10 members of the governing board and shall be recognized as a full
11 member of the board at the meetings, including receiving all
12 materials presented to the board members and participating in the
13 questioning of witnesses and the discussion of issues.

14 ~~A~~

15 (5) A nonvoting student member shall not be included in
16 determining the vote required to carry any measure before the
17 board.

18 ~~A~~

19 (6) A nonvoting student member shall not be liable for any acts
20 of the governing board.

21 (b) Notwithstanding subdivision (a), the nonvoting student
22 member or members selected to serve on the governing board of
23 a community college district pursuant to subdivision (a) may do
24 any of the following:

25 (1) Make and second motions at the discretion of the governing
26 board.

27 (2) Attend closed sessions, other than closed sessions on
28 personnel matters or collective bargaining matters, at the discretion
29 of the governing board.

30 (3) Receive compensation, at the discretion of the governing
31 board, up to the amount prescribed by Section 72425.

32 (4) Serve a term of one year commencing on May 15 of each
33 year, at the discretion of the governing board.

34 (c) It is the intent of the Legislature that any decision or action,
35 including any contract entered into pursuant thereto, upon the
36 motion or second of a motion of a student member, shall be fully
37 legal and enforceable against the district or any party thereto.

38 (d) The governing board of each community college district
39 that affords the student member or members of the board any of
40 the privileges enumerated in subdivision (b) shall, by May 15 of

1 each year, adopt rules and regulations implementing this section.
2 These rules and regulations shall be effective until May 15 of the
3 following year.

4 *(e) If a state court finds this section is unlawful, the court may*
5 *order, as equitable relief, that the administering entity that is the*
6 *subject of the lawsuit terminate any waiver awarded under this*
7 *statute or provision, but no money damages, tuition refund or*
8 *waiver, or other retroactive relief may be awarded. In any action*
9 *in which the court finds this section is unlawful, the California*
10 *Community Colleges are immune from the imposition of any award*
11 *of money damages, tuition refund or waiver, or other retroactive*
12 *relief.*

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15 CORRECTIONS: _____

16 Text—Page 4.
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